

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAY 18 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2009-0212
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JOSE REFUGIO VALDESPINO GUEVERA,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. 200700741

Honorable Donna M. Beumler, Judge Pro Tempore

AFFIRMED

John W. Lovell

Tucson
Attorney for Appellant

K E L L Y, Judge.

¶1 Appellant Jose Valdespino Guevera was convicted after a jury trial of sexual assault and kidnapping and sentenced to concurrent, mitigated prison terms, the longer of which is 6.5 years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing he has reviewed the entire record and found no arguable issue to raise on appeal. In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel also has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that

counsel has in fact thoroughly reviewed the record.” Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel’s recitation of the facts. Valdespino Guevera has not filed a supplemental brief.

¶2 Viewed in the light most favorable to upholding the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that, in the fall of 2007, Valdespino Guevera followed a woman into a women’s restroom at a tavern, pulled open the stall door, and grabbed and bit her breast. The woman struggled with Valdespino Guevera and told him, “no, no, please, leave me alone.” Valdespino Guevera pushed the woman against the door and penetrated her vaginally with his penis.

¶3 We conclude substantial evidence supported findings of all the elements necessary for Valdespino Guevera’s convictions, *see* A.R.S. §§ 13-1301, 13-1304(A), 13-13-1401, 13-1406(A), and his sentences are within the authorized range, *see* 2006 Ariz. Sess. Laws, ch. 148, § 1. In our examination of the record pursuant to *Anders*, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, we affirm Valdespino Guevera’s convictions and sentences.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Presiding Judge